










Procedure file

Basic information		
CNS - Consultation procedure Regulation	2021/0140(CNS)	Procedure completed
The Schengen evaluation mechanism Repealing Regulation 2013/1053 2010/0312(NLE)		
Subject 7.10.02 Schengen area, Schengen acquis 7.10.04 External borders crossing and controls, visas 7.30.05 Police cooperation 7.40 Judicial cooperation 8.50.01 Implementation of EU law		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Civil Liberties, Justice and Home Affairs	 SKYTTEDAL Sara	11/10/2021
		Shadow rapporteur	
		 VOLLATH Bettina	
		 OETJEN Jan-Christoph	
		 MARQUARDT Erik	
		 GARRAUD Jean-Paul	
		 BRUDZIŃSKI Joachim Stanisław	
		 DALY Clare	
	Committee for opinion	Rapporteur for opinion	Appointed
	 Budgets	The committee decided not to give an opinion.	
Council of the European Union	Commission DG	Commissioner	
European Commission	Migration and Home Affairs	JOHANSSON Ylva	

Key events			
02/06/2021	Legislative proposal published	COM(2021)0278	Summary
13/09/2021	Committee referral announced in Parliament		
16/03/2022	Vote in committee		
21/03/2022	Committee report tabled for plenary, 1st reading/single reading	A9-0054/2022	Summary

06/04/2022	Debate in Parliament		
07/04/2022	Results of vote in Parliament		
07/04/2022	Decision by Parliament	T9-0122/2022	Summary
09/06/2022	Act adopted by Council after consultation of Parliament		
15/06/2022	Final act published in Official Journal		

Technical information

Procedure reference	2021/0140(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
	Repealing Regulation 2013/1053 2010/0312(NLE)
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/9/06207

Documentation gateway

Legislative proposal	COM(2021)0278	02/06/2021	EC	Summary
Document attached to the procedure	SEC(2021)0225	02/06/2021	EC	
Document attached to the procedure	SWD(2021)0119	02/06/2021	EC	
Document attached to the procedure	SWD(2021)0120	02/06/2021	EC	
Document attached to the procedure	N9-0052/2021 OJ C 337 23.08.2021, p. 0002	27/07/2021	EDPS	
Economic and Social Committee: opinion, report	CES3317/2021	20/10/2021	ESC	
Committee draft report	PE703.016	16/12/2021	EP	
Amendments tabled in committee	PE704.785	01/02/2022	EP	
Committee report tabled for plenary, 1st reading/single reading	A9-0054/2022	21/03/2022	EP	Summary
Text adopted by Parliament, 1st reading/single reading	T9-0122/2022	07/04/2022	EP	Summary
Commission response to text adopted in plenary	SP(2022)281	01/06/2022	EC	

Final act

[Regulation 2022/922](#)
[OJ L 160 15.06.2022, p. 0001](#)

The Schengen evaluation mechanism

PURPOSE: to further develop, improve and render the already existing evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing Regulation (EU) No 1053/2013.

PROPOSED ACT: Council Regulation.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: the Schengen area is one of the most significant achievements of the European Union. It has enhanced the freedom of movement by enabling more than 420 million people to move without being subject to internal border controls, as well as facilitating the cross-border delivery of goods and services.

The Schengen evaluation and monitoring mechanism is a peer-to-peer review mechanism aimed at verifying that Member States correctly implement the Schengen rules.

Today, the mechanism faces different challenges to when it was established. Instability in Europe's neighbourhood and beyond, the 2015 refugee crisis and its consequences, the persistent terrorist threat and the COVID-19 pandemic have put considerable strain on Schengen and even led to some Member States reintroducing internal border controls for a protracted period.

The Commission carried out a review of the operation of the Regulation in 2020. The review confirmed the need to have a robust mechanism at EU level. It found that the mechanism has already brought about tangible improvements in the implementation of the Schengen acquis by the Member States. It has, however, identified several shortcomings that should be addressed. These include the excessive length of the evaluation process, the slow follow up on recommendations and the lack of strategic approach on the evaluations and political discussions on the state of Schengen. The revision of the mechanism will help address these challenges.

CONTENT: the aim of this proposal is to further develop, improve and render the already existing mechanism more efficient.

The proposed changes concern:

Evaluation and monitoring activities should be:

- more targeted, taking into account the results of previous evaluations and the results of national quality control mechanisms. They should be supported by reinforced cooperation with Union bodies, offices and agencies, their systematic involvement in Schengen evaluations and by improved risk analyses and information sharing;
- carried out by teams consisting of Commission representatives and experts designated by Member States. To ensure the participation of sufficient number of experienced experts in a faster and less burdensome way, a pool of experts should be established and maintained by the Commission in close cooperation with the Member States;
- given more flexibility as regards the size of the evaluation and monitoring teams in order to increase the efficiency and to reduce administrative burden. Therefore, the Commission should define and adapt the size of the teams depending on the needs and challenges related to each evaluation and monitoring activity.

Multiannual evaluation programme

It is proposed that the Commission establish a multiannual evaluation programme covering a period of seven years (as opposed to five). A simplified procedure is also introduced to adjust the programme, according to which adjustments necessitated as a result of force majeure events and circumstances, may not require an amendment to the programme. Experience of the past years has clearly shown the need for such flexibility.

Accelerating the evaluation process

Strengthening and accelerating the provisions related to cases where evaluations identify a serious deficiency: a fast-track procedure for a serious deficiency is introduced to ensure that the deficiencies identified are addressed promptly. The Commission proposes shortening the evaluation process from 10-12 months to 4 months, and in the case of serious deficiencies to 2.5 months.

Follow up and monitoring

All evaluation reports will be followed up by an action plan. As a general rule, the frequency of the follow-up reporting will be reduced from three to six months. However, as a new element the follow-up reports should not only be submitted to the Commission, but to the Council as well. The role of the European Parliament and the Council will be reinforced in the monitoring phase: the Commission will inform them at least twice a year about the state of implementation of the action plans, the outcome of revisits and verification visits as well as if it observes considerable lack of progress in the implementation of an action plan.

Unannounced visits

Another main change has been made to the conduct of visits. Unannounced visits, being one of the most effective tools to verify Member States practices should, depending on their purpose, take place without prior notification to the Member State concerned or with only short prior notification. Unannounced visits without prior notification should take place for investigative purposes in order to verify compliance with obligations under the Schengen acquis, including, in particular allegations of serious violations of fundamental rights at the external borders. Unannounced visits with a 24-hour advance notice should take place if the main purpose of the visit is to carry out a random check of the Member States implementation of the Schengen acquis.

Regular Schengen Forums

The yearly reports on the results of the evaluations carried out and state of play regarding the remedial actions taken by Member States foreseen under this regulation should be part of the yearly State of Schengen Report. The Commission proposes to relaunch the adoption of the State of Schengen Report to serve as a basis for discussions at the recently created Schengen Forum.

Transitional provisions

The proposal provides a transitional provision for the adoption of a new multiannual programme, which would be established by 1 November 2022 and it would commence on 1 January 2023. These dates can be adapted depending on the pace of negotiations on the proposal.

Budgetary implications

Annually it costs approximately EUR 2 million for the Commission to run the mechanism. This level of spending will be maintained. Costs

incurred by the Member States experts will continue to be reimbursed and no increase is expected in this regard either. Due to the proposed changes more will be done in a more efficient manner with the same resources.

The Schengen evaluation mechanism

The Committee on Civil Liberties, Justice and Home Affairs adopted, following a special consultation procedure, the report by Sara SKYTTEDAL (EPP, SE) on the proposal for a Council regulation on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing Regulation (EU) No 1053/2013.

The revised evaluation and monitoring mechanism should aim at maintaining a high level of mutual trust among Member States by guaranteeing that Member States apply the Schengen acquis effectively following the agreed common standards, fundamental principles and norms, in order to ensure a well-functioning Schengen area, in full respect for fundamental rights and without internal border controls.

The evaluation and monitoring mechanism should achieve these goals through objective and impartial evaluations that are able to quickly identify deficiencies in the application of the Schengen acquis that could disrupt the correct functioning of the Schengen area, ensure that these deficiencies are swiftly addressed, and provide the basis for a genuine political dialogue among Member States on the functioning of the Schengen area as a whole.

The committee responsible approved the Commission's proposal subject to the following amendments:

Subject matter and scope

The amended Regulation establishes an evaluation and monitoring mechanism for the purpose of ensuring that Member States apply the Schengen acquis effectively to ensure a well-functioning area without internal border controls, and with full respect for fundamental rights.

Evaluations may cover all aspects of the Schengen acquis, including the effective and efficient application by the Member States of accompanying measures in the areas of external borders, visa policy, the Schengen Information System, data protection, police cooperation, judicial cooperation, as well as the absence of border control at internal borders. All evaluations should comprise an assessment of compliance with fundamental rights in the context of the aspects covered.

Responsibilities and duty to cooperate

Member States, the Commission and the Council should cooperate fully at all stages of the evaluations to ensure the effective implementation of the Regulation, while ensuring that the European Parliament is kept fully informed of all substantial developments.

The Commission could organise unannounced evaluations, in particular: (i) to evaluate practices at internal borders, in particular where internal border controls have been in place for more than 180 days and where there is evidence of fundamental rights violations; (ii) when it becomes aware of emerging problems which may have a significant negative impact on the functioning of the Schengen area, including circumstances which may constitute threats to internal security.

Short notice visits

In each multiannual evaluation cycle, each Member State shall undergo one periodic evaluation and at least one unannounced evaluation or short notice visit, as well as one or more thematic evaluations.

The amended text clarifies a maximum of 24 hours notice should be given to a Member State prior to a short notice visit, which is a complementary tool. A short-notice visit should take place only where the main purpose of the visit is to carry out a random check of the implementation of the Schengen acquis by a Member State.

Cooperation with the Fundamental Rights Agency

The European Union Agency for Fundamental Rights should submit annually to the Commission conclusions on its overall assessment of fundamental rights as regards the implementation of the Schengen acquis with a view to providing the Commission with its findings when drawing up the annual programme.

The Commission, in cooperation with the European Union Agency for Fundamental Rights, should include in the questionnaire specific benchmarks against which the evaluation teams assess compliance with fundamental rights.

Establishment of the teams

The Commission should also invite the European Parliament to send a representative to observe the reviews as a Union observer. The Commission should appoint an expert responsible for the fundamental rights elements of the visit or evaluation.

Evaluation reports, follow-up and monitoring

It is proposed that the Commission should transmit the evaluation report to the national Parliaments, the European Parliament and the Council no later than 14 days after the report is adopted.

If, after 24 months from the adoption of the evaluation report, the Commission does not consider that all the recommendations have been sufficiently addressed and the action plan fully implemented, the European Parliament and the Council should express their position on the matter through a reasoned decision.

Serious deficiency

The amended Regulation stipulated that the Commission should immediately inform the Council and the European Parliament and the national parliaments of the identified serious deficiency and the remedial actions, if any, already taken by the evaluated Member State. The Council should adopt recommendations no later than ten days (as opposed to 2 weeks as proposed by the Commission) after the receipt of the proposal.

The evaluated Member State should submit to the Commission and the Council its action plan within three weeks of the adoption of the recommendations. The Commission should transmit that action plan to the European Parliament without any delay.

To verify the progress made in the implementation of the recommendations related to the serious deficiency, the Commission should organise a revisit that is to take place no later than 180 days from the date of the evaluation activity.

Where, after a revisit, a Member State does not satisfactorily implement an action plan following an evaluation that identified a serious deficiency, the Commission should launch an infringement procedure against that Member State where it considers that that Member State failed to fulfil an obligation.

The Schengen evaluation mechanism

The European Parliament adopted by 427 votes to 102, with 24 abstentions, following a special legislative procedure (consultation), a legislative resolution on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing Regulation (EU) No 1053/2013.

The proposal aims to revise the Schengen evaluation and control mechanism with a view to making it more effective and maintaining a high level of mutual trust between the participating Member States.

Parliament approved the Commission proposal subject to the following amendments:

Scope

Members proposed that evaluations should cover all aspects of the Schengen acquis, including the effective and efficient application by the Member States of accompanying measures in the areas of external borders, visa policy, the Schengen Information System, data protection, police cooperation, judicial cooperation, as well as the absence of border control at internal borders. All evaluations shall comprise an assessment of compliance with fundamental rights in the context of the aspects covered.

All evaluations should include an assessment of respect for fundamental rights.

Responsibilities and duty to cooperate

Member States, the Commission and the Council should cooperate fully at all stages of the evaluations to ensure the effective implementation of the Regulation, while ensuring that the European Parliament is kept fully informed of all substantial developments.

Form of evaluations

Evaluations may be conducted with short notice.

The Commission could organise unannounced evaluations, in particular: (i) to evaluate practices at internal borders, in particular where internal border controls have been in place for more than 180 days and where there is evidence of fundamental rights violations; (ii) when it becomes aware of emerging problems which may have a significant negative impact on the functioning of the Schengen area, including circumstances which may constitute threats to internal security.

Assessment and monitoring activities could be carried out through announced, short notice or unannounced inspections, questionnaires or other remote methods. The Commission could invite at least one member of the Union's bodies and agencies to participate in evaluation and monitoring teams, as appropriate.

Short notice visits

In each multiannual evaluation cycle, each Member State shall undergo one periodic evaluation and at least one unannounced evaluation or short notice visit, as well as one or more thematic evaluations.

A maximum of 24 hours notice should be given to a Member State prior to a short notice visit, which is a complementary tool. A short-notice visit should take place only where the main purpose of the visit is to carry out a random check of the implementation of the Schengen acquis by a Member State.

Cooperation with the Fundamental Rights Agency

The European Union Agency for Fundamental Rights should submit annually to the Commission conclusions on its overall assessment of fundamental rights as regards the implementation of the Schengen acquis with a view to providing the Commission with its findings when drawing up the annual programme.

The Commission, in cooperation with the European Union Agency for Fundamental Rights, should include in the questionnaire specific benchmarks against which the evaluation teams assess compliance with fundamental rights.

Establishment of teams

All experts participating in a team carrying out an evaluation or monitoring activity should have undergone appropriate training to become Schengen evaluators. In addition, where the activities of a Union body or agency present in the Member State are evaluated as part of the evaluation of that Member State, no experts or observers from that Union body or agency should participate in the evaluation.

The Commission should also invite the European Parliament to send a representative to observe the reviews as a Union observer. The Commission should appoint an expert responsible for the fundamental rights elements of the visit or evaluation.

Evaluation reports, follow-up and monitoring

It is proposed that the Commission should transmit the evaluation report to the national Parliaments, the European Parliament and the Council no later than 14 days after the report is adopted.

If, after 24 months from the adoption of the evaluation report, the Commission does not consider that all the recommendations have been sufficiently addressed and the action plan fully implemented, the European Parliament and the Council should express their position on the matter through a reasoned decision.

Serious deficiency

The amended Regulation stipulated that the Commission should immediately inform the Council and the European Parliament and the national parliaments of the identified serious deficiency and the remedial actions, if any, already taken by the evaluated Member State. The Council should adopt recommendations no later than ten days (as opposed to 2 weeks as proposed by the Commission) after the receipt of the proposal.

The evaluated Member State should submit to the Commission and the Council its action plan within three weeks of the adoption of the recommendations. The Commission should transmit that action plan to the European Parliament without any delay.

To verify the progress made in the implementation of the recommendations related to the serious deficiency, the Commission should organise a revisit that is to take place no later than 180 days from the date of the evaluation activity.

Where, after a revisit, a Member State does not satisfactorily implement an action plan following an evaluation that identified a serious deficiency, the Commission should launch an infringement procedure against that Member State where it considers that that Member State failed to fulfil an obligation.